

Remarks:

The applicant has studied the Office Action dated July 26, 2006, and pursuant to an Examiner interview has amended the claims to distinctively claim the subject matter of the invention. Claims 1, 7-20, 25-36 and 38-50 are pending in the current application. By the virtue of this amendment, claims 1, 10, 12, 13, 20, 28, 30, 31 and 44 have been amended and claims 11, 19 and 29 are canceled. Claims 2-6, 21-24 and 37 were previously canceled. No new matter has been added. Support for the new claims and the amendment is found within the specification and the drawings. It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Interview Summary:

An Examiner Interview was held on October 10, 2006, wherein the merits of the present amendment and claims were discussed in reference to a proposed amendment submitted to the Examiner in advance of the interview date.

With respect to the pending independent claims, and particularly claim 1, the Examiner noted that the addition of the recited language for adjusting the “size” distinguishes the claimed invention over the cited references. The Examiner advised, however, that an updated search may be necessary.

With respect to pending claim 12, attorney for the Applicant noted that none of the cited references particularly teach the recited relationship $D = \frac{A^2}{B}$. The Examiner contends that the use of letters A, B, C, and D makes claim 12 indefinite or alternatively does not recite an additional limitation, because the Examiner feels that the “letters are “variables” and a variable can be any number.”

It is respectfully submitted that while it is true that any “number” may be represented by an alphanumeric letter, in this case the letters A, B, C and D are used to represent definitively recited claim elements. That is, the letters represent the heights and widths of respective

elements recited in claim 10, where A and B correspond to width and height of the display respectively; and C and D correspond to width and height of the first image. It has been long held that “An applicant is entitled to be his or her own lexicographer.” See MPEP 2111.01 (III). Therefore, rejection of the claims on the basis that the Applicant has used a certain term (i.e., a letter of the alphabet) to define the recited elements is improper.

Instead of using the letters A, B, C, and D, the Applicant could have used the terms used in claim 10 to recite the respective elements in claim 12. For example, instead of reciting A in claim 12, the claim could be written reciting “width of the display”. But this would make the claim language longer and more difficult to understand, particularly since the relationship

$D = \frac{A^2}{B}$ can be easily disclosed by a formula rather than having to write out each element.

Respectfully, the simple substitution of letters A, B, C and D in claim 12 for the previously claimed elements in claim 10 does not make claim 12 indefinite.

“Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim.” Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999). In claim 10, the Applicant has explicitly provided the definition for what A, B, C and D represent. Therefore, the Examiner cannot simply argue that the recitation in claim 12 is indefinite or that alternatively it provides no additional limitation because any number can be assigned to it. Otherwise, any recitation in a claim would be deemed objectionable.

For example, following the same line of reasoning as the Examiner, one could argue that a recited element “width of the first image” or a recited relationship “square of the width of the first image” is indefinite because it can be any number. This is an improper rejection. The Examiner is requested to provide supportive authority in form of case law or statutory law that sets forth the ground of rejection.

The Applicant has amended claim 12 to more particularly recite the subject matter of the claimed invention and to reduce the use of letters A, B, C and D. Respectfully, however, it is

noted that the use of letters A, B, C, and D is provided for ease of drafting and understanding the claimed subject matter without having to use the equivalent terms (e.g., “width of the first image”, “height of the second image”, etc.) that have been definitively recited in claim 10. The recitation of claim elements using alphanumeric characters does not make a claim indefinite, and is actually encouraged by the USPTO in that it avoids drafting lengthy and complex claims. (See MPEP 608.)

§112 Rejections:

Claims 1, 7-20, 38-43 are rejected under 35 U.S.C. 112, first paragraph. Claims 1, 7-19, 38-39 and 42 are rejected under 35 U.S.C. 112, second paragraph.

The Applicant has removed the objectionable language “the” from claim 1.

The Applicant respectfully points out that the application and the drawings support the language in claims 1 and 20 reciting “wherein the second image has the same width-height aspect ratio as the first image.” The aspect ratio of an image is its displayed width divided by its height (usually expressed as “x:y”) (see www.wikipedia.org).

Referring to FIGS. 3A-3D, the claimed image has the same aspect ratio regardless of degree of rotation or direction of orientation, because height C of the first image (corresponding to width A of the display) corresponds to the width of the second image, and width D of the first image (corresponding to height B of the display) corresponds to the height of the second image, after the image is rotated 90 degrees.

The Applicant respectfully submits that the §112 rejections should be withdrawn in light of the amended claims and the provided arguments.

§103 Rejections:

Claims 1, 7-20, 25-36 and 38-50 are rejected under 35 U.S.C. 103(a) over US6,154,214 ("Uyehara") in view of US2003/0044000A1 ("Kfoury") or in view of the combination of the two references with US 6,262,769 ("Anderson") and/or US 6,720,863 ("Hull"). The 103 grounds of rejection are respectfully traversed.

Uyehara is directed to an electronic device for displaying "text" of an electronic book. That is, a person can purchase a book in electronic format and read it using the reader device disclosed in Uyehara. (See Abstract, col. 1, lns. 15-30)

Referring to col. 5, ln. 65 to col. 6, ln. 36, and Figs. 17 and 18, the Uyehara's reader has a "touch screen" that allows a user to tap a displayed arrow on the screen to change the orientation of text displayed thereon. As shown and described, the reader is for the purpose of displaying "text." As such, when the orientation of the text is changed from portrait to landscape, the width-height aspect ratio of the displayed text changes, as a function of a change in the line wrapping.

The Examiner has referred to FIGS. 17 and 18 of Uyehara contending that those two figures show a rotated "image" as recited in claim 1. The Examiner, however, has ignored the other aspects, features and limitations recited in claim 1. It is respectfully noted that rejection of claims using a drawing requires that "the picture must show all the claimed structural features and how they are put together" and "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art." M.P.E.P. §2125.

Respectfully, Uyehara not only fails to teach the claimed structural features but also teaches away from the recited invention in claim 1 for the following four reasons:

1. Uyehara is not directed to viewing "images" of an object as claimed in claim 1, but is used for reading "text."

2. Uyehara emphasizes the use of arrows displayed on a touch screen and does not disclose a keypad having first and second direction keys for rotating a displayed image, as recited in claim 1.

3. Uyehara teaches away from the present invention as claimed in claim 1, by teaching that the rotated text has a different width-height aspect ratio in comparison to the originally displayed text. In contrast, claim 1 recites that “the second image has the same width-height aspect ratio as the first image.”

4. Because Uyehara is only concerned with changing the orientation of the displayed text, it does not suggest adjusting the image size so that it fits in the display. Instead, the text is wrapped in a different format and it is not clear if all or more of the text is displayed after it is rotated. Thus, under Uyehara, the produced result is not a rotated version of the same “image” adjusted in size to fit in the display. Instead, Uyehara teaches displaying the rotated “text” as adjusted with respect to its wrapping. Particularly, Uyehara fails to disclose the recited claim element “wherein interacting with the first and direction keys causes the first image to change orientation such that the second image is same as the first image but displayed in a second orientation and adjusted in size to fit the display unit.”

For the above reasons, Uyehara is patently distinct from the claimed invention. Since Uyehara fails to disclose the recited elements in the amended claim 1, citing Uyehara as the primary reference for the purpose of a rejection under § 103 is improper.

The Examiner has cited to FIGS. 1-4 of Kfoury proposing that Kfoury cures Uyehara’s deficiencies in teaching that the “second image has the same width-height aspect ratio as the first image.” Respectfully, Kfoury suffers from the same deficiencies as Uyehara in that Kfoury only suggests displaying “text” and not “images.” Kfoury also teaches a rotatable keypad for rotating the display angle of the text, thus teaching away from using keys on the keypad to do the same.

The Applicant has carefully reviewed the cited figures and the related portions of the description in Kfoury. No portion of Kfoury either alone or in combination with Uyehara teaches, suggests or discloses rotating an “image” such that interacting with the first and second direction keys causes the first image to change orientation such that the second image is same as the first image but displayed in a second orientation and adjusted in size to fit the display unit.

The Examiner on page 5 of the Office Action contends that it would have been obvious to combine teachings of Uyehara and Kfoury. Beyond making this remark, the Examiner fails to provide any support or reason for the combination. Respectfully, since both Uyehara and Kfoury teach away from the claimed invention by suggesting manipulation of text instead of an image, a person of ordinary skill would not be motivated to combine the two references in the direction of the claimed invention.

Further, the Examiner on page 12 of the Office Action contends that it would be obvious to combine the image rotation method taught by Anderson with teachings of Uyehara and Kfoury to produce the results contemplated by the present invention. This rejection is also respectfully traversed as Anderson also fails to cure the aforementioned deficiencies of Uyehara and Kfoury.

Anderson is directed to a method of rotating an image on a display unit of a “camera.” Since a camera cannot be used to read text data, the teachings of Anderson cannot be directly applied to Uyehara and Kfoury. Thus, there would be no motivation for combination of the three references. Also, Anderson in the Background section expressly provides that the objective of the disclosed “automatic rotation” feature is so that a user would not have to manually interact with the camera to rotate an image in the “review mode.”

Therefore, contrary to the Examiner’s assertion, while it is true that the disclosed camera in Anderson has buttons and keys for controlling the general operation of the camera, none of said keys and buttons can be used to rotate an image in clock-wise and counter-clockwise directions, as claimed in claim 1. The Applicant has carefully reviewed Anderson and

respectfully submits that Anderson expressly teaches away from a user manually interacting with the camera to change the rotation of a displayed image, as claimed in claim 1.

Since the above references all teach away from the claimed invention, a reasonable person would not be motivated to combine their teachings in the direction of the invention. Prior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining the teachings.” In re Sernaker, 217 USPQ 1, 6 (Fed. Cir. 1983). Further, it is well settled that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

There is no support in the Office Action why it would be obvious to a person of ordinary skill to adopt the image rotation method disclosed in camera of the Anderson with the text reader of Uyehara or the mobile communication device of Kfoury. Particularly, noting the filing dates of the cited references, Uyehara and Kfoury were both filed after Anderson. If incorporation of the rotation method of Anderson into either of the references was obvious to one of ordinary skill, at least one of said references would have suggested it. Since obviousness may not be established by hindsight reconstruction or conjecture, Applicant invites the Examiner to point out the alleged motivation to combine with specificity,¹ or alternatively provide a reference or affidavit in support thereof pursuant to MPEP §2144.03.²

For the above reasons, it is respectfully submitted that the cited prior art references cannot be combined to teach the claimed invention. Further, even if one is modified in accordance with the teachings of the others, the resultant modification would still fail to teach, suggest, or disclose that “the user input is provided via a keypad of the mobile terminal, wherein the keypad comprises first and second direction keys, wherein the first direction key is associated

¹ *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

² “The rationale supporting an obviousness rejection may be based on common knowledge in the art or “well-known” prior art . . . If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. When a rejection is based on facts within the personal knowledge of the examiner . . . the facts must be supported, when called for by the applicant, by an affidavit from the examiner.”

with a clockwise direction of rotation and the second direction key is associated with a counter-clockwise direction of rotation, wherein pressing the first direction key causes the first image to be rotated clockwise by approximately 90 degrees, wherein pressing the second direction key causes the first image to be rotated counter-clockwise by approximately 90 degrees, wherein the second image has the same width-height aspect ratio as the first image, and wherein interacting with the first and direction keys causes the first image to change orientation such that the second image is same as the first image but displayed in a second orientation and adjusted in size to fit the display unit” as claimed in claim 1.

For the above reasons, the invention as recited in claim 1 is distinguishable from Uyehara, Kfoury and Anderson, either alone or in combination.

Furthermore, with respect to claims 10-13 and 28-30, neither of the two references teach or suggest that “the display unit has a width A and a height B, and the first image has a height C and a width D, wherein the first image is rotated such that a first edge of the first image is aligned approximately in parallel with the width A of the display unit, and a second edge of the first image is aligned approximately in parallel with the height B of the display unit, such that the second image has a width approximately equal to A and a height approximately equal to B, or that the height of the second image is adjusted to be approximately equal to $\frac{A^2}{B}$.” The Applicant has carefully read the cited references and is unable to find any teachings in that direction. The Examiner is invited to more particularly point out any portion of the cited references that teach the recited elements noted above, or otherwise withdraw the rejection of claims 10-13 and 28-30.

Claims 17-18 and 35-36 are rejected under section 103 as obvious over Uyehara, Kfoury and Hull. Hull is directed to a mobile telephone with a keypad that can be illuminated in different colors such that each key and color combination represents the identity of a caller and/or the age of a message left by the caller (see Abstract).

No portion of Hull either alone or in combination with Uyehara or Kfoury teaches or suggests a “method of configuring an image displayed on a display unit of a mobile terminal, the method comprising rotating a first image displayed on the display unit, in a first direction relative to the display unit, to display a second image; and adjusting dimension and orientation of the second image _relative to dimensions of the display unit, wherein the user input is provided via a keypad of the mobile terminal, wherein the keypad comprises first and second direction keys, wherein the first direction key is associated with a clockwise direction of rotation and the second direction key is associated with a counter-clockwise direction of rotation, wherein pressing the first direction key causes the first image to be rotated clockwise by approximately 90 degrees, wherein pressing the second direction key causes the first image to be rotated counter-clockwise by approximately 90 degrees, wherein the second image has the same width-height aspect ratio as the first image, and wherein interacting with the first and direction keys causes the first image to change orientation such that the second image is same as the first image but displayed in a second orientation and adjusted in size to fit the display unit.”

There is no indication in the Office Action, why the above references can be combined or how such combination is possible, as the disclosed systems in each reference are independently complex and cannot be easily modified to work with each other. Further, even if the disclosed systems can be combined, the resultant combination will not function to accomplish the rotation and resizing operations as claimed in claim 1.

“In rejecting claims under 35 U.S.C. §103, the examiner bears the initial burden of presenting a prima facie case of obviousness. ‘A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.’ In re Rijkaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993).

For the above reasons, the invention as recited in the amended claim 1 is distinguishable over the references cited by the Examiner. Claim 20 substantially incorporates the discussed elements of claim 1 and therefore claims 1 and 20 should be in condition for allowance. Claims

7-10, 12-15 and 25-28, 30-36, respectively depending on claims 1 and 20 should also be in condition for allowance.


With respect to claims 38-50, claims 38, 39 and 42 are dependent on claim 1; claims 40, 41, and 43 are dependent on claim 20. Independent claim 44 and its dependent claims 45-50 substantially incorporate the elements of claim 1 and 20. Therefore, claims 44-50 should be in condition for allowance for the same reasons discussed above with respect to independent claims 1 and 20.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
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Date: November 27, 2006

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